

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION

KEVIN SCHEUNEMANN

Plaintiff,

v.

Case No. 11-CV-00351

PHILLIPS & COHEN ASSOCIATES

Defendant.

NOTICE OF REMOVAL

Defendant and Petitioner for Removal, Phillips & Cohen Associates, Ltd., erroneously sued as Phillips & Cohen Associates (hereinafter referred to as “PCA”), and with reservation of all rights, hereby removes from the Circuit Court of Washington County in the State of Wisconsin, the proceeding entitled and captioned matter of *Kevin Scheunemann v. Phillips & Cohen Associates*, Civil Action No. 11CV0306, on the basis of federal question jurisdiction.

The Removal Notice is based on the following grounds:

1. This is a civil action, filed on or about March 10, 2011, in which Plaintiff alleges causes of action arising under, *inter alia*, the federal Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692 *et seq.* and the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227. *See Plaintiff’s Complaint* ¶ 26. The FDCPA vests the federal district courts with jurisdiction, stating that “[a]n action to enforce any liability created by this title may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, within one year from the date on which the violation

occurs.” 15 U.S.C. § 1692k. In addition, the Court also has federal question jurisdiction over the TCPA claim. *Brill v. Countrywide Home Loans Inc.*, 427 F.3d 446 (7th Cir. 2005).

2. The United States district courts therefore have original jurisdiction over such claims under 28 U.S.C. §1331. Accordingly, this Court has federal question removal jurisdiction under 28 U.S.C. §1441(b).

3. Under 28 U.S.C. §1367(a), to the extent Plaintiff’s pleading seeks additional relief under Wisconsin state law, this Court has supplemental jurisdiction over all such remaining pendent State claims because that claim is so related to the federal claim they form part of the same case or controversy under Article III of the United States Constitution.

4. Venue is proper in this district and division as the Circuit Court for Washington County in the State of Wisconsin, the court in which this action was filed, is within the Eastern District of Wisconsin.

5. Process in *Kevin Scheunemann v. Phillips & Cohen Associates*, was served on the Complaint setting forth the claim for relief upon which this notice is based was otherwise first received by PCA on March 15, 2011, which was not more than thirty (30) days before the filing of this *Notice of Removal*, and this *Notice of Removal* is being filed within one year of the date suit was first filed in State court in compliance with 28 U.S.C. § 1446(b)(“If the case stated by the initial pleading is removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may be first be ascertained that the case is one which is or has become removable . . .”).

6. Attached and made part of this filing are copies of all process, pleadings and orders served upon PCA. *See* Exhibit “A.” The corporate disclosure statement is attached hereto

as Exhibit "B". A copy of this notice is also concurrently being filed with the State court and served upon Plaintiff.

WHEREFORE, based on this Court's original federal question jurisdiction, petitioner for removal and defendant Phillips & Cohen Associates, Ltd. respectfully requests that this case proceed in this Court as an action properly removed from the Circuit Court for Washington County, State of Wisconsin.

Dated this 13th day of April, 2011.

THOMAS & ASSOCIATES



Scott G. Thomas
State Bar No. 1004014
Attorneys for Defendant
Attorney for Phillips & Cohen Associates, Ltd.

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CERTIFICATE OF SERVICE

I certify that on this 13th day of April 2011, a copy of the foregoing **Notice of Removal** was sent to the plaintiff, pro se, at the below address via U.S. Mail, postage pre-paid.

Kevin Scheunemann
210 Dream Catcher Dr.
Kewaskum, WI 53040

THOMAS & ASSOCIATES

A handwritten signature in black ink, appearing to read 'Scott G. Thomas', written over a horizontal line.

Scott G. Thomas
State Bar No. 1004014
Attorneys for Defendant
Attorney for Phillips & Cohen Associates, Ltd.